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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,770	02/25/2004	Jeffrey Frank Vasquez	1220-101.US	2863

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EXAMINER

THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/786,770

Applicant(s)

VASQUEZ, JEFFREY FRANK

Examiner

Hugh B. Thompson II

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2004.  
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-3, 7, 9, 13-16, 18-22 and 26-32 is/are rejected.  
 7) ☒ Claim(s) 4-6, 8, 10-12, 17 and 23-25 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 2-25-04.  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-6 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 4, there is no antecedent basis for “the jack screw”.

With respect to claim 31, there is no antecedent basis for “the shutter control”.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 13-15, and 29-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Swapp #5,379,551. Swapp, as recited in column 5, lines 27-37, discloses a shutter assembly comprised of a “geared” motor unit (inherently powered) attachable to a moving assembly 156, a slat interface 100, having a body portion 112 (connectable/engaged to the moving assembly) and connector portion 114 received within an end of slats 16.

Claims 1, 2, 7, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruggles #6,014,839. Ruggles, as recited in column 8, lines 46-67, discloses a shutter assembly

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comprised of housed motor assembly (inherently powered) 21, 24, slat interface 32 that is received within portion 34 of slat 18a, and body portion 22 that is attached to an inherent moving assembly within the motor assembly.

Claims 1, 2, 9, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Milano, Jr. #6,568,131. Milano Jr., as recited in column 2, lines 15-23, column 3, lines 37-51, and column 4, lines 11-23, discloses a shutter assembly 10 comprised of a geared motor assembly 80, 82, moving assembly 52 that is attached to body portion 54 of slat interface 42, the slat interface also having a connector portion 50 and sleeve portions 58 that are received within/on slat 18a, and slip mechanism/clutch as recited in column 4, lines 11-23.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 18, 19, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toda et al #4,449,563 in view of Swapp as advanced above. Swapp fails to disclose a battery, AC, or solar powered shutter assembly. Toda et al, as recited in column 1, lines 43-49, teaches the utility of a multi-source powered shutter assembly, the power source being no matter than an obvious design choice. Therefore, to one of ordinary skill in the art it would have been obvious, as a matter of engineering design choice, to provide multiple power sources to power the shutter assembly of Swapp by solar or battery sources, as taught by Toda et al, so as to power the shutter

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assembly in multiple manners inclusive of AC power, while producing no new and unexpected results.

Claims 20, 21, 22, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brinkerhoff et al #6,692,349 in view of Swapp as advanced above. Swapp fails to disclose a remote controlled shutter assembly. Brinkerhoff et al, as recited in column 5, lines 1-7, teach the utility of a remote control unit 14 for a shutter assembly/vent/louver assembly, the unit having multiple input buttons 18 and wireless transceiver used to control louver movement. Therefore, to one of ordinary skill in the art it would have been obvious, as a matter of engineering design choice, to provide the shutter assembly of Swapp with a remote control assembly as taught by Brinkerhoff et al, so as to control louver movement from remote locations, while producing no new and unexpected results.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swapp as applied to claims 1, 2, 13-15, and 29-30 above, and in view of Ruggles as advanced above. Swapp fails to disclose a housing for the motor assembly. Ruggles teaches the utility of a housed motor assembly for a shutter assembly, the housing providing a protective cover for the motor. Therefore, to one of ordinary skill in the art it would have been obvious, as a matter of engineering design choice, to provide the shutter assembly of Swapp with a motor housing as taught by Ruggles, so as to provide a protective cover for the motor, while producing no new and unexpected results.

#### ***Allowable Subject Matter***

Claims 4-6, 8, 9-12, 17, and 23-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the

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limitations of the base claim and any intervening claims. The primary reason for the allowable subject matter of claim 4 is the inclusion of the moving assembly having a screw-threaded shaft along which the carriage assembly moves in a linear manner. For claim 8, it is the inclusion of a second flat plate portion connected to the curved portion to engage a second surface of the slat. For claim 10, it is the inclusion of an adhesive means on the connector portion. For claim 17, it is the inclusion of the solar connector mounted on the outside of the housing that house a part of the moving assembly. For claim 23, it is the inclusion of the connector having a hole and screw that passes there through to secure the slat. For claim 24, it is the inclusion of the body having an aperture and the moving assembly having a clevis joint received by the aperture. For claim 25, it is the inclusion of the body portion having a ball and the moving assembly having a socket that receives the ball. The prior art of record fails to teach or suggest the claimed features absent the applicant's own disclosure.

### *Conclusion*

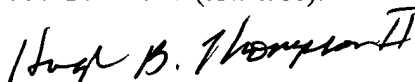
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lin #5,467,556, Marocco #6,675,534, Brown #3,177,367, Artusy #4,279,240, Lutz #6,131,335, Ishihara #3,991,518, Blachley #6,854,211, Ishihara #4,254,581, Huang #6,910,516, Rossini #6,065,524, and Cittadini #6,651,724 are cited to teach louver and shutter assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

July 9, 2005